GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Tribal Welfare Department –Appeal Petition filed by Sri PBSSLN. Murthy Raju S/o Late Sri Butchi Raju, R/o Kota Veedhi, Salur Town, Salur Mandal, Vizianagaram, against the proceedings, dated 28.6.2010 of the District Collector, Vizianagaram District, under section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No. 16/1993) –the matter is remanded back to District Collector – Orders Issued.

TRIBAL WELFARE (CV2) DEPARTMENT

G.O.Ms.No.84 **Dated: 06.07.2016**

Read the following:

1. Proceedings of the Dist. Collector, Vizianagaram No. (M) R.Dis.No.1934/03 C5, dt.28.06.2010.
2. Appeal Petition of Mr.PBSSLN.Murthy Raju S/o Late Mr.Mutchi Raju R/o Kota Veedhi, Salur Town, Salur Mandal, Vizianagaram, filed through covering letter of Dr.T.Purushottama Rao, Chairman, High Power Committee RIAD, dt.07.07.2010 received through M(TW &RIAD).
3. Govt.Memo.No.5144/CV2/2010, SW(CV2) Dept. dt.28.07.2010.
4. Orders of HC of AP in WPNo.27409 of 2008, dt.06.10.2009, filed by Sri Ambati Vincent S/o Thammanna Dora, R/o Mettavalasa (V), Thoanam Panchayat, Vizianagaram Dist.
5. From the District Collector, Vizianagaram, Lr. No. (M) R.Dis.No.1934/03 C5, dated 16.11.2010.
6. Govt. Letter No. 5144/CV.2/2010, dated 04.03.2011.
7. Govt. Memo. No. 5144/CV.2/2010, dated 20.10.2012, 17.01.2013, 13.10.2014, 24.11.2014, 21.02.2015.
8. Govt. Memo. No. 5144/CV.2/2010, dated 12.03.2015.
9. Written arguments filed by Counsel for the Appellant before the Government on 18.04.2015.

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ORDER:

In the reference 1st read above the District Collector, Vizianagaram has issued orders canceling ST-Konda Dora Certificate obtained from the then Mandal Revenue Office, Salur in 1994 by Mr. PBSSLN. Murthy Raju S/o Late Mr. Butchi Raju.

2. In the reference 2nd read above, Mr. PBSSLN. Murthy Raju S/o Late Mr. Butchi Raju has filed an Appeal Petition before the Government, against the said Proceedings of the District Collector, Vizianagaram. After examining the said Appeal Petition, Government have admitted the Appeal Petition & granted stay on the said proceedings of the District Collector, Vizianagaram and called for the parawise remarks and connected records from the District Collector, Vizianagaram in the reference 3rd read above.

3. Sri Ambati Vincent, S/o Thammanna Dora has filed Writ Petition No. 27409/2008 against the Government & Mr. PBSSLN. Murthy Raju S/o Late Mr. Butchi Raju. In the reference 4th read above the Hon'ble High Court of Andhra Pradesh, in its order dated 06.10.2009 has directed the Government to expeditiously dispose of the appeal after issuing a notice to the appellant herein intimating the date of hearing of appeal, and at any rate within a period of 30 days from the date of receipt of the order. But due to several administrative difficulties the appeal petition could not be disposed off within the time limit as directed by Hon'ble High Court.

4. In the reference 5th read above, the District Collector, Vizianagaram has furnished the Parawise remarks and connected records on the appeal petition filed by Mr. PBSSLN. Murthy Raju S/o Late Mr. Butchi Raju.

5. The said Appeal Petition has been again posted for hearing on 18.03.2011, 30.10.2012, 21.01.2013, 25.10.2014, 13.12.2014, 28.02.2015 and finally on

[P.T.O]

18.04.2015and the same has been informed to the Appellant and the Counsel for the appellant and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no claim what-so-ever in the matter and it will be decided based on the material available with the Government in the references 6th to 8th read above.

6. As part of hearing after examination of the records/ the copies of evidences/academic record/ grounds filed by the appellant/ the parawise remarks submitted by the District Collector, Vizianagaram and proceedings of the District Collector, Vizianagaram dated. 28.06.2010, it is observed by the Appellate Authority that:

I. The Appellant has claimed that the principles of natural justice have been grossly violated by the DLSC and District Collector and in passing the impugned order. He also stated that all the so called enquires were held on behind his back and he was literally condemned unheard.

II. He has also claimed that his father did not give any statement and the said statement alleged to be of father was brought into existence. There is not fair play of justice throughout the conduct of the proceedings.

III. The enquiry copies of MRO, Salur and RDO, Parvathipuram were not given to him. None of the documents or statements relied on by the DLSC were supplied to the appellant.

IV. The District Collector and Joint Collector were prejudiced against him. The appellant aggrieved by the order of the Collector filed Writ Petition No. 4868/2004 and the same was disposed of in favour of the Appellant. Similarly the Writ Petition No. 1782/1983 filed by L.N. Sanyasi Raju was allowed on 25.04.1985 whereby L.N. Sanyasi Raju was declared as Konda Dora and the said order became final as not challenged by the Government before the Hon'ble Division bench of Hon'ble High Court or Hon'ble Supreme Court.

V. Further as per the Honourable decision reported in AIR 1963 SCC page-677, which is delivered by Hon'ble Supreme Court that "the Quasi-Judicial Authority or Tribunals have the same responsibility to follow the Principles of Natural Justice".

7. Further it is observed that even though burden is placed on the appellant to prove his caste the respondents who are authorities under Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No. 16/1993), but yet to the principles of natural justice shall be followed scrupulously and justice shall not only be done appeal to manifestly done. The hues and cries of the Appellant are that the DLSC and District Collector did not given him sufficient opportunity and hence the impugned orders the principles of natural justice have been violated. Further it is observed that the Hon'ble Supreme Court has held on several occasions that the statutory authorities shall never violate the principal of natural Justice. In view of the facts and circumstances, the Government is considered view after going through the entire record that the impugned order is not sustainable and hence the same is set aside.

8. The Government, in exercise of the powers conferred under Section 8(1) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), decide that the Appeal Petition filed by Mr. PBSSLN. Murthy Raju S/o Late Mr. Butchi Raju is allowed in part and the matter remanded to the District Collector, Vizianagaram for afresh enquiry and give opportunity to the Appellant and to pass an order according to law within 30 days from the date of receipt the order. Hence, Proceedings of the District Collector, Vizianagaram issued vide (M) R.Dis.No.1934/03 C5, dt.28.06.2010 is hereby set-aside and the matter remanded to the District Collector, Vizianagaram for afresh enquiry and give opportunity to the Appellant and to pass an order according to law within 30 days from the date of receipt the order.

[Contd…]

09. Consequently, the District Collector, Vizianagaram shall take necessary action in the matter.

10. The records (containing (M) R.Dis.No.1934/03 C5, dt.28.06.2010 pages 1072 CF) received from District Collector, Vizianagaram through in the reference 5th read above, are returned herewith in original to District Collector, Vizianagaram and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

R.P.SISODIA
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, Vizianagaram (w.e)
(with original records) (BY RPAD)

Sri. PBSSLN.Murthy Raju, S/o Late Mr.Butchi Raju,
Kota Veedhi, Salur Town, Salur Mandal,
Vizianagaram District-535591.

Sri.T.Lakshminarayana, Advocate,
Flat No.414, Sovereign Shelter,
Lakdikapool, Hyderabad -500004.

The Registrar (Vigilance), APHC, Hyderabad.

Copy to :

The Director, TCR& TI, AP, Hyderabad
P.S. to Hon'ble Minister(SWE&TWE)
P.S. to Principal Secretary(TW)

// FORWARDED:: BY ORDER //

SECTION OFFICER